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CASE NO. 10154
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ORDER

On January 5, 1988, the Commission's Complaint Section directed Big Sandy to provide service to Mr. Hazelett, and to pursue payment of the delinquency in another manner. By letter dated January 8, 1988, Big Sandy responded that collecting amounts due from family members of delinquent customers was the "only viable method" available to Big Sandy to obtain payment on these accounts, and if not allowed to continue the practice, they would be forced to forgive these debts and pass the resulting expense along to their customers.

On January 8, 1988, Commission Staff requested written confirmation of Big Sandy's position relative to the continuing denial of service to Mr. Hazelett. Big Sandy, by counsel, responded on January 19, 1988, indicating the Board of Directors of Big Sandy felt that fraud was involved.

Since Mr. Hazelett's complaint was not satisfactorily resolved through the informal complaint process, on February 8, 1988, the Commission ordered Big Sandy to satisfy or answer the complaint. On February 19, 1988, Big Sandy answered, alleging that Mr. Hazelett's actions amounted to a fraudulent scheme to avoid payment of the delinquency and that on that basis they felt justified in refusing to provide service. They requested a hearing, which was held on March 22, 1988.

There is little dispute as to the facts. Mr. Hazelett is the owner of a new double-wide mobile home located on U.S. 23 just north of Prestonsburg, Kentucky, immediately adjacent to a rental house on the same property which currently has electric service in his name as landlord. Mr. Hazelett also maintains an account for electric service to his residence. These accounts are not delinquent. Big Sandy is the only electric utility providing service to that area.

The record shows that the application by Ms. Ward was made prior to Mr. Hazelett's request for service. The parties agree that Mr. Hazelett never tried to conceal the fact that Ms. Ward would be residing in the rental trailer. There was no showing of the existence of a fraudulent scheme or fraudulent intent.

Both of Big Sandy's witnesses frankly admitted that the refusal to provide service to Mr. Hazelett was a "collection tool" used in an effort to force Ms. Ward to pay the delinquent amount. Payment of the delinquent amount was never actually demanded from Mr. Hazelett but it was made clear to him that he would not receive service to his rental property until the debt was paid. It was denied that Big Sandy was trying to collect the delinquency directly from Mr. Hazelett. Both witnesses for the utility admitted that denying service to one family member because of another family member's delinquency has been Big Sandy's unwritten policy for quite some time, but that this unwritten procedure regarding denial of service conditions is not part of Big Sandy's approved tariff on file with the Commission.¹

In the process of filling out an application for service, the utility's procedure is to ask for the names of all children, (whether or not they will be residing with the applicant) and to request the name of the ex-spouse(s) when the applicant indicates his/her marital status is "divorced." This information is then used for identifying or "tracking" purposes.

After considering the evidence of record in this case, and being duly advised, the Commission is of the opinion and hereby finds that:

1. Mr. Hazelett is entitled to electric service in his name at his rental property and cannot be denied service due to the delinquency incurred by Mike Ward.

¹ Transcript, pp. 41, 58-59.

2. Familial relationships are an insufficient basis upon which to deny electric service absent a showing that the applicant himself has directly received the benefit of service or is legally obligated to pay for service.

3. Big Sandy should take appropriate steps to insure that the procedures and practices in use by the utility to gather information on family members and ex-spouses who do not or will not reside with the applicant are not used in a coercive or arbitrary manner to extract payment from, or deny service to, applicants who are not legally responsible for the debt.

IT IS THEREFORE ORDERED that:

1. Big Sandy shall immediately upon receipt of this Order take the necessary steps to provide electric service to James Hazelett in his name at the rental trailer on US 23 in Prestonsburg, Kentucky.

2. Pursuant to 807 KAR 5:006, Section 5, Big Sandy shall within 30 days after the date of this Order, file with the Commission for approval all special rules, requirements, or policies currently enforced by them as required by the Commission's regulations cited herein.

Done at Frankfort, Kentucky, this 18th day of April, 1988.

PUBLIC SERVICE COMMISSION

Richard D. Hemmelf
Chairman

Robert M. Davis
Vice Chairman

James M. Williams, Jr.
Commissioner

ATTEST:

Executive Director